

EXHIBIT D

COPY

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Civil Action No. 92-1667

UNIX SYSTEM LABORATORIES, INC.,)

Plaintiff)

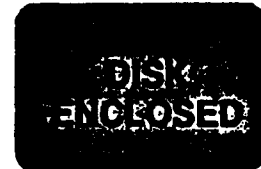
vs.)

BERKELEY SOFTWARE DESIGN, INC.,)
and THE REGENTS OF THE)
UNIVERSITY OF CALIFORNIA,)

Defendant.)

**December 8, 1992
Greenville, North Carolina
9:20 o' clock A. M.**

**DEPOSITION
OF
DAVID FRASURE**



KING'S COURT REPORTING SERVICES
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LAURI S. CROWDER
Court Reporter
PENNY HARPER
Court Reporter

1 a series of questions just to get a little -- little
2 background.

3 I know it's been a long time, but I wanted to
4 go back to the meeting at Berkeley and I'm hoping that
5 some of the documents I have will help kind of put some
6 of the pieces together for all of us.

7 A. Okay.

8 Q. Actually, before -- before I do that, I want
9 to ask you one additional question, and I want you to
10 hold on to the educational boilerplate, maybe that will
11 help you, but these -- these words come up in all the
12 agreements but this one that you referred to, the
13 educational boilerplate, which is part of exhibit --
14 Defendant's Exhibit No. 25.

15 During the time that you were employed at AT
16 and T from the '83-'84 time period through 1987, what was
17 your understanding of what encompassed a result of --
18 strike that -- a modification of the licensed software?

19 A. Well, could be -- a modification could be
20 changing a line of code, it could be adding a line or
21 lines, or it could be deleting lines of code.

22 Q. Now, could that be distinguished from
23 enhancing? Did enhancement mean something different to
24 you during that time frame?

25 A. From a view that I took of it, no; enhancement

1 related. The computer was used -- the software was used
2 for research purposes and something was discovered as a
3 result of the use of that software, so that was the
4 results of it.

5 In other words, if you could come to a -- to
6 a conclusion about -- about a -- a bunch of numbers or
7 some research project and you categorize it and you made
8 this discovery and it had nothing to do with -- with the
9 software product itself, it was the -- the software was
10 just processing the data -- the information.

11 Q. Was it your understanding that it could have
12 included software? That the result could have included
13 software?

14 A. I again had a -- well, let me just answer the
15 question. No. I -- I have a mindset -- the -- a
16 modification is a modification and that involves three
17 things, and you can add one line of code or a thousand
18 lines of code or ten thousand . . .

19 Q. You've already told us about that.

20 A. Yeah.

21 MR. KENNEDY: Well, yeah, I think you . . .

22 As long as the records that it's -- he talked
23 about more than just adding code; he talked about other
24 things and I think . . .

25 Q. Right, and . . .